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2007 AUG 23 PM 3: 26

CLERK OF DISTRICT COURT

BY do DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSEPH ARIAS JR.,

Plaintiff,

vs.

D. W. BELL, et al.,

Defendant.


CASE NO. 07cv0096 JM(CAB)

ORDER GRANTING MOTION FOR
LEAVE TO FILE AMENDED
COMPLAINT; CONDITIONALLY
DENYING MOTION TO DISMISS
AS MOOT

Plaintiff, proceeding in propria persona in this Civil Rights action, moves ex parte for leave to file an amended complaint to add a party and to set forth additional allegations. As Rule 15(a) provides that a party may amend the complaint once as a matter of right, prior to the filing of a responsive pleading, Plaintiff need not seek leave of court to file his first amended complaint because Defendants have yet to file a responsive pleading. Notwithstanding, pursuant to the court's inherent authority to control its own docket, Plaintiff is instructed to file the first amended complaint within 30 days of entry of this order. Upon filing the amended complaint, Defendants' pending motion to dismiss will be denied as moot. In the event Plaintiff fails to timely file the amended complaint, Defendants' motion to dismiss will be recalendared for immediate resolution.

IT IS SO ORDERED.

DATED: 8/23, 2007


JEFFREY T. MILLER
United States District Judge

cc: All parties